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11  
12 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14 IN RE: IPHONE/IPAD APPLICATION  
15 CONSUMER PRIVACY LITIGATION

Case No.:5:11-md-02250 LHK

16 **ADMINISTRATIVE MOTION TO FILE**  
17 **PORTIONS OF PLAINTIFFS' MOTION**  
18 **FOR CLASS CERTIFICATION UNDER**  
19 **SEAL PURSUANT TO LOCAL RULE 79-**  
20 **5(d)**

21  
22 Ctrm: 8, 4th Floor  
23 Judge: Hon. Lucy H. Koh  
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22 Pursuant to Civil Local Rules 7-11 and 79-5(d), and the Stipulated Protective Order  
23 ("The Protective Order" that was entered by the Court on August 13, 2012 (Dkt No. 89),  
24 Plaintiffs hereby submit this Administrative Motion to File Portions of Plaintiffs' Motion for  
25 Class Certification Under Seal.

26 Apple designated the great majority of the documents it produced in this action as Highly  
27 Confidential – Attorneys Eyes' Only (as well as the deposition testimony of its 30(b)(6)  
28 witnesses). As a result, several of the documents and much of the testimony supporting

1 Plaintiffs' Motion for Class Certification (which are both attached to the Motion as exhibits, as  
2 well as referenced throughout the Memorandum in Support), have been and remain designated as  
3 Highly Confidential – Attorneys Eyes Only.

4 Under the Protective Order, Plaintiffs are prohibited from making public the documents  
5 that Apple has designated as Confidential and Highly Confidential – Attorneys Eyes Only. As  
6 Plaintiffs wish to file documents that have been designated confidential by Apple pursuant to a  
7 protective order, and to refer in their memorandum to information so designated by Apple,  
8 Plaintiffs file this Administrative Motion for a sealing order in accordance with Local Rule 79-  
9 5(d).

10 In a good faith attempt to try to avoid filing under seal (or to reduce the scope of what  
11 Plaintiffs must file under seal), Plaintiffs provided Apple with a tentative list of the Apple-  
12 produced exhibits Plaintiffs intend to rely on, as well as the names of the Apple deponents  
13 whose testimony they intend to use, in support of their Motion for Class Certification. In  
14 response, Apple indicated that it was not prepared to down designate the handful of Highly  
15 Confidential-Attorneys Eyes only documents. In addition, without seeing specific page and line  
16 designations for all of the Apple witnesses, Apple was not prepared to down designate the  
17 confidentiality of the depositions at this time. (See Declaration of Scott A. Kamber in Support  
18 of Plaintiffs' Administrative Motion to File Plaintiffs' Motion for Class Certification Under  
19 Seal).

20 Because Plaintiffs reference Highly Confidential-Attorneys Eyes' Only documents,  
21 information, and deposition testimony, throughout Plaintiffs' Memorandum in Support of their  
22 Motion for Class certification, they seek to file under seal:

- 23 1. the entire Memorandum in Support of Plaintiffs' Motion for Class Certification;
- 24 2. all of the currently designated Highly Confidential–Attorneys Eyes' Only exhibits;
- 25 3. all of the excerpts of deposition testimony from Apple witnesses; and
- 26 4. the Declaration of M. Egele, Dr. techn.

1 Plaintiffs will publicly file:

- 2 1. the Notice of Motion;
- 3 2. the Declaration of Deborah Kravitz (along with any non-confidential documents and
- 4 deposition testimony attached thereto; and
- 5 3. the Declaration of Scott A. Kamber (along with any non-confidential documents
- 6 attached thereto.

7 Pursuant to L.R. 79-5(d), within 7 days thereafter, Apple, the designating party, must file

8 with the Court and serve a declaration establishing that the designated information is sealable,

9 and must lodge and serve a narrowly tailored proposed sealing order, or must withdraw the

10 designation of confidentiality. If Apple does not file its responsive declaration as required by this

11 subsection, Plaintiffs' Memorandum of Law in Support of the Motion for Class Certification, as

12 well as the supporting documents, information, testimony, and Declaration of Manual Egele may

13 be made part of the public record.

14 For the foregoing reasons, Plaintiffs respectfully move for an order allowing the filings

15 enumerated above to made under seal, until such time as Apple responds as required by L.R. 79-

16 5(d).

17 Respectfully submitted,

18 KAMBERLAW, LLC

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20 Dated this December 17, 2012

\_\_\_\_\_/Scott A. Kamber

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